

DENISE EATON-MAY, ESQ. (SBN 116780)  
LAW OFFICES OF DENISE EATON-MAY, PC  
1290 B Street, Suite 316  
Hayward CA 94541  
Tel.: 510.888.1345  
Fax: 510.315.3015  
Email: [denise.may@eaton-maylaw.com](mailto:denise.may@eaton-maylaw.com)

Attorney for Plaintiff ADRIAN ROMERO, JR.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

**ADRIAN ROMERO, JR.,**  
Plaintiff,

vs.

**CALIFORNIA HIGHWAY PATROL,**  
Defendant.

**No. 2:21-cv-1978 JAM DB**

**STIPULATION AND PROTECTIVE  
ORDER**

**1. Purposes and Limitations**

Disclosure and discovery activity in this action are likely to involve the production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under

1 the applicable legal principles. The parties further acknowledge, as set forth below, that this  
2 Stipulated Protective Order does not entitle them to file confidential information under seal; Civil  
3 Local Rule 141 sets forth the procedures that must be followed and the standards that will be  
4 applied when a party seeks permission from the court to file material under seal.

5 **2. Definitions**

6  
7 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
8 information or items under this Order.

9 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
10 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of  
11 Civil Procedure 26(c).

12 2.3 Designating Party: a Party or Non-Party that designates information or items that it  
13 produces in disclosures or in responses to discovery as “CONFIDENTIAL”.

14  
15 2.4 Disclosure or Discovery Material: all items or information, regardless of the medium  
16 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
17 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
18 discovery in this matter.

19 2.5 Expert: a person with specialized knowledge or experience in a matter pertinent to  
20 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a  
21 consultant in this action, (2) is not a past or current employee of a Party and (3) at the time of  
22 retention, is not anticipated to become an employee of a Party.

23  
24 2.6 Non-Party: any natural person, partnership, corporation, association, or other legal  
25 entity not named as a Party to this action.

26 2.7 Counsel of Record: attorneys who have appeared in this action on behalf of that party  
27 or are affiliated with a law firm or governmental entity which has appeared on behalf of that party.  
28

2.8 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Counsel of Record (and their support staff).

2.9 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.10 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.11 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL".

2.12 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

### 3 **Scope**

3.1 The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel of Record that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

1           4       **Duration**

2           Even after final disposition of this litigation, the confidentiality obligations imposed  
3 by this Order shall remain in effect until: (1) a Designating Party agrees otherwise in writing; (2) a  
4 court order otherwise directs; or (3) there is a complete return or demolition of all Protected  
5 Material pursuant to Section 12. Final disposition shall be deemed to be the later of (1) dismissal of  
6 all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after  
7 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
8 including the time limits for filing any motion or application for extension of time pursuant to  
9 applicable law.  
10

11           5       **Designating Protected Material**

12           5.1     Exercise of Restraint and Care in Designating Material for Protection Each Party or  
13 Non-Party that designates information or items for protection under this Order must take care to  
14 limit any such designation to specific material that qualifies under the appropriate standards. To the  
15 extent it is practical to do so, the Designating Party must designate for protection only those parts of  
16 material, documents, items, or oral or written communications that qualify - so that other portions of  
17 the material, documents, items, or communications for which protection is not warranted are not  
18 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized designations  
19 are prohibited. Designations that are shown to be clearly unjustified or that have been made for an  
20 improper purpose (e.g., to unnecessarily encumber the case development process or to impose  
21 unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.  
22

23           If it comes to a Designating Party's attention that information or items that it designated for  
24 protection do not qualify for protection at all or do not qualify for the level of protection initially  
25 asserted, the Designating Party must promptly notify all other parties that is withdrawing the  
26 mistaken designation.  
27  
28

1           5.2     Manner and Timing of Designations

2           Expect as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a)  
3 below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for  
4 protection under this Order must be clearly so designated before the material is disclosed or  
5 produced. Designation in conformity with this Order requires:

6           (a) for information in documentary form (e.g., paper or electronic documents, but excluding  
7 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the  
8 legend "CONFIDENTIAL" to each page that contains protected material. If only a portion or  
9 portions of the material on a page qualifies for protection, the Producing Party also must clearly  
10 identify the inspection and before the designation, all of the material made available for protected  
11 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion,  
12 the level of protection being asserted. Alternatively, the Producing Party may designate an entire  
13 production or storage device (such as CD or flash drive) as confidential by including notice of such  
14 designation or including "CONFIDENTIAL" in the title of each designated file.

15           A Party or Non-Party that makes original documents or materials available for inspection  
16 need not designate them for protection until after the inspecting Party has indicated which material  
17 it would like copied and produced. During the inspection and before the designation, all of the  
18 material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting  
19 Party has identified the documents, or portions thereof, qualify for protection under this Order.  
20 Then, before producing the specified documents, the Producing Party must affix the appropriate  
21 legend "CONFIDENTIAL" to each page that contains Protected Material. If only a portion or  
22 portions of the material on a page qualifies for protection, the Producing Party also must clearly  
23 identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must  
24 specify, for each portion, the level of protection being asserted.  
25  
26  
27  
28

1 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
2 Designating Party identify on the record, before the close of the deposition, hearing, or other  
3 proceeding, or in a writing to all parties within 30 business days of receipt of the deposition or  
4 hearing transcript, all protected way affect its designation as "CONFIDENTIAL".

5 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or  
6 other proceeding to include Protected Material so that the other parties can ensure that only  
7 authorized individuals who have signed the "Acknowledgment and Agreement to be Be Bound"  
8 (Exhibit A) are present at those proceedings. The use if a document as an exhibit at a deposition  
9 shall not in any way affect its designation as "CONFIDENTIAL."

10 Transcripts containing Protected Material shall have an obvious legend on the title page that  
11 the transcript contains Protected Material, and the title page shall be followed by a list of all pages  
12 (including line number as appropriate) that have been designated as Protected Material and the level  
13 of protection being asserted by the Designating Party. The Designating Party shall inform the court  
14 reporter of these requirements. Any transcript that is prepared before the expiration of a 30-day  
15 period for designation shall be treated during that period as if it had been designated  
16 "CONFIDENTIAL" in its entirety unless otherwise agreed. After the expiration of that period, the  
17 transcript shall be treated only as actually designated.

18 (c) for information produced in some other form than documentary and for any other  
19 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or  
20 containers in which the information or item is stored the legend "CONFIDENTIAL." If only a  
21 portion or portions of the information or item warrant protection, the Producing Party, to the extent  
22 practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

23 ///

24 ///

1           5.3       Inadvertent Failures to Designate

2           If timely corrected, an inadvertent failure to designate information or items does not,  
3 standing alone, waive the Designating Party's right to secure protection under this Order for such  
4 material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts  
5 to assure that the material is treated in accordance with the provisions of this Order.  
6

7           6.       **Challenging Confidentiality Designations**

8           6.1       Timing of Challenges

9           Any Party or Non-Party may challenge a designation of confidentiality at any time.  
10 Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid  
11 foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or  
12 delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by  
13 electing not to mount a challenge promptly after the original designation is disclosed.  
14

15          6.2       Meet and Confer

16          The Challenging Party shall initiate the dispute resolution process by providing written  
17 notice of each designation it is challenging and describing the basis for each challenge. To avoid  
18 ambiguity as to whether a challenge has been made, the written notice must recite that the challenge  
19 to confidentiality is being made in accordance with this specific paragraph of the Protective Order.  
20 The parties shall attempt to resolve each challenge in good faith and must begin the process by  
21 conferring directly within 14 days of the date of service of notice. In conferring, the Challenging  
22 Party must explain the basis for its belief that the confidentiality designation was not proper and  
23 must give the Designating Party an opportunity to review the designated material, to reconsider the  
24 circumstances, and, if no change in designation is offered, to explain the basis for the chosen  
25 designation. A Challenging Party may proceed to the next stage of the challenge process only if it  
26  
27  
28

1 has engaged in this meet and confer process first or establishes that the Designating Party is  
2 unwilling to participate in the meet and confer process in a timely manner.

### 3 6.3 Judicial Intervention

4 If the Parties cannot resolve a challenge without court intervention, the Designating Party  
5 shall file and serve a motion to retain confidentiality within 21 days of the initial notice of challenge  
6 or within 14 days of the parties agreeing that the meet and confer process will not resolve their  
7 dispute, whichever is earlier. Each such motion must be accompanied by a competent declaration  
8 affirming that the movant has complied with the meet and confer requirements imposed in the  
9 preceding paragraph. Failure by the Designating Party to make such a motion including the required  
10 declaration within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality  
11 designation for each challenged designation. In addition, the Challenging Party may file a motion  
12 challenging a confidentiality designation at any time if there is good cause of FRCP 26(c), including  
13 a challenge to the designation of a deposition transcript or any portions thereof. Any motion brought  
14 pursuant to this provision must be accompanied by a competent declaration affirming that the  
15 movant has complied with the meet and confer requirements imposed by the preceding paragraph.  
16

17 The burden of persuasion in any such challenge proceeding shall be on the Designating  
18 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose  
19 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.  
20 Unless the Designating Party has waived the confidentiality designation by failing to file a motion  
21 to retain confidentiality as described above, all parties shall continue to afford the material in  
22 question the level of protection to which it is entitled under the Producing Party's designation until  
23 the court rules on the challenge.  
24

## 25 7. Access to and Use of Protected Material

### 26 7.1 Basic Principles

27

28



1 A Receiving Party may use Protected Material that is disclosed or produced by another Party  
2 or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to  
3 settle this litigation. Such Protected Material may be disclosed only to the categories of persons and  
4 under the conditions described in this Order. When the litigation has been terminated, a Receiving  
5 Party must comply with the provisions of section 15 below (FINAL DISPOSITION). Protected  
6 Material must be stored and maintained by a Receiving Party at a location and in a secure manner  
7 that ensures that access is limited to the persons authorized under this Order.  
8

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items

10 Unless otherwise ordered by the court or permitted in writing by the Designating Party, a  
11 Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

12 (a) the Receiving Party’s Counsel of Record in this action, as well as employees of  
13 said Counsel of Record to whom it is reasonably necessary to disclose the information for this  
14 litigation;  
15

16 (b) the officers, directors, and employees of the Receiving Party to whom disclosure  
17 is reasonably necessary for this litigation and who have signed the “Acknowledgment and  
18 Agreement to Be Bound” (Exhibit A);

19 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
20 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement  
21 to Be Bound” (Exhibit A);  
22

23 (d) the court and its personnel;

24 (e) court reporters and their staff, professional jury or trial consultants, and  
25 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who signed  
26 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);  
27  
28

1 (f) during their depositions, witnesses in the action to whom disclosure is reasonably  
2 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
3 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed  
4 deposition testimony or exhibits to depositions that reveal Protected Material must be separately  
5 bound by the court reported and may be disclosed to anyone except as permitted under this  
6 Stipulated Protected Order.  
7

8 (g) the author or recipient of a document containing the information or a custodian or  
9 other person who otherwise possessed or new the information.

10 **8. Protected Material Subpoenaed or Order Produced in Other Litigation**

11 If a Party is served with a subpoena or a court order issued in other litigation that compels  
12 disclosure of any information or items designated in this action as "CONFIDENTIAL" that Party  
13 must:  
14

15 (a) promptly notify in writing the Designating Party. Such notification shall include a  
16 copy of the subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order to issue in  
18 the other litigation that some or all of the material covered by the subpoena or order is subject to this  
19 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and  
20

21 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
22 Designating Party whose Protected Material may be affected.

23 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
24 or court order shall not produce any information designated in this action as “CONFIDENTIAL”  
25 before a determination by the court from which the subpoena or order issued, unless the Party has  
26 obtained the Designating Party’s permission. The Designating Party shall bear the burden and  
27 expense of seeking protection in that court of its confidential material – and nothing in these  
28

provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

**9. Unauthorized Disclosure of Protected Material**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protected Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made all of the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached as Exhibit A.

**10. Inadvertent Production of Privileged or Otherwise Protected Material**

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

**11. Miscellaneous**

**11.1 Right to Further Relief**

Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

///

1           11.2   Right to Assert Other Objections

2           By stipulating to the entry of this Protective Order no Party waives any right it otherwise  
3 would have to object to disclosing or producing any information or item on any ground not  
4 addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any  
5 ground to use in evidence of any of the material covered by this Protective Order.  
6

7           11.3   Filing Protected Material

8           Without written permission from the Designating Party or a court order secured after  
9 appropriate notice to all interested persons, a Party may not file in the public record in this action  
10 any Protected Material. A Party that seeks to file under seal any Protected Material must comply  
11 with Civil Local Rule 141. Protected Material may only be filed under seal pursuant to a court order  
12 authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 141,  
13 a sealing order will issue only upon a request establishing that the Protected Material at issue is  
14 privileged, protectable as a trade secret, or otherwise entitled to protection under the law.  
15

16           **12.   Final Disposition**

17           Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
18 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
19 As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations,  
20 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
21 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
22 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
23 by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material  
24 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,  
25 abstracts, compilations, summaries or any other format reproducing or capturing any of the  
26 Protected Material. Notwithstanding this provision, Counsel of Record are entitled to retain an  
27  
28

1 archival copy of all pleadings, motion papers, trial, deposition and trial exhibits, expert reports,  
2 attorney work product, and consultation and expert work product even if such material contains  
3 Protected Material. Any such archival copies that contain or constitute Protected Material remain  
4 subject to this Protective Order as set forth in Section 4 (Duration).  
5

6  
7 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**  
8  
9

10 Dated: 3/23/2023

LAW OFFICES OF DENISE EATON-MAY, PC

11  
12 By: /s/ Denise Eaton May  
13 DENISE EATON-MAY  
14 Attorneys for Plaintiff  
15 ADRIAN ROMERO, JR.  
16  
17

18 Dated: 2/28/2023

ATTORNEY GENERAL OF CALIFORNIA

19  
20 By: /s/ Vanessa Mott  
21 Rob Bonta  
22 Celine M. Cooper  
23 Vanessa W. Mott  
24 Attorneys for Defendant  
25 California Highway Patrol  
26  
27  
28

**ORDER**

Pursuant to the parties' stipulation, IT IS SO ORDERED.

IT IS FURTHER ORDERED THAT:

1. Requests to seal documents shall be made by motion before the same judge who will decide the matter related to that request to seal.

2. The designation of documents (including transcripts of testimony) as confidential pursuant to this order does not automatically entitle the parties to file such a document with the court under seal. Parties are advised that any request to seal documents in this district is governed by Local Rule 141. In brief, Local Rule 141 provides that documents may only be sealed by a written order of the court after a specific request to seal has been made. L.R. 141(a). However, a mere request to seal is not enough under the local rules. In particular, Local Rule 141(b) requires that "[t]he 'Request to Seal Documents' shall set forth the statutory or other authority for sealing, the requested duration, the identity, by name or category, of persons to be permitted access to the document, and all relevant information." L.R. 141(b).

3. A request to seal material must normally meet the high threshold of showing that "compelling reasons" support secrecy; however, where the material is, at most, "tangentially related" to the merits of a case, the request to seal may be granted on a showing of "good cause." Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1096-1102 (9th Cir. 2016); Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1178-80 (9th Cir. 2006).

4. Nothing in this order shall limit the testimony of parties or non-parties, or the use of certain documents, at any court hearing or trial – such determinations will only be made by the court at the hearing or trial, or upon an appropriate motion.

5. With respect to motions regarding any disputes concerning this protective order which the parties cannot informally resolve, the parties shall follow the procedures outlined in Local Rule 251. Absent a showing of good cause, the court will not hear discovery disputes on an ex parte basis or on shortened time.

////

1           6. The parties may not modify the terms of this Protective Order without the court's approval.  
2 If the parties agree to a potential modification, they shall submit a stipulation and proposed order for  
3 the court's consideration.

4           7. Pursuant to Local Rule 141.1(f), the court will not retain jurisdiction over enforcement of  
5 the terms of this Protective Order after the action is terminated.

6           8. Any provision in the parties' stipulation that is in conflict with anything in this order is  
7 hereby DISAPPROVED.

8 DATED: May 31, 2023

/s/ DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

**EXHIBIT A**

Acknowledgment and Agreement to Be Bound

I, \_\_\_\_\_ [print or type full name],  
of \_\_\_\_\_  
[print or type full address], declare under of perjury that I have read in its entirety and understand  
the Stipulated Protective Order that was issued by the United States District Court for the Eastern  
District of California on \_\_\_\_\_, 2023 in the case Adrian Romero, Jr. v. California Highway  
Patrol, Case No. 2:21-CV-01978-JAM-DB. I agree to comply with and to be bound by all the terms  
of this Stipulated Protective Order and I understand and acknowledge that failure to so comply  
could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I  
will not disclose in any manner any information or item that is subject to this Stipulated Protective  
Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Eastern  
District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even  
if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_  
[print or type full address and telephone number] as my California agent of service of process in  
connection with this action or any proceeding related to enforcement of this Stipulated Protective  
Order.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

City and State where signed: \_\_\_\_\_  
\_\_\_\_\_